



Landmarks & Urban  
Conservation Commission



**Agenda Number: 4**  
**Case No.: 09LUCC-50039**  
**Project # 1007987**  
**January 13, 2009**

### **Supplemental Staff Report #2**

<b>Agent</b>	Flor Castro	<b>Staff Recommendation</b> <b><i>DENIAL of Case # 09LUCC-50039, Project #1007987, a request for a Certificate of Appropriateness for alteration, based on the Findings 1-18 on page 10.</i></b>  <b>Maryellen Hennessy</b> <b>Staff Planner</b>
<b>Applicant</b>	Theodore Garcia	
<b>Request</b>	Certificate of Appropriateness	
<b>Legal Description</b>	Tract 174A MRGCD Map 38	
<b>Address/Location</b>	2004 South Plaza	
<b>Size</b>		
<b>Zoning</b>	H-1	
<b>Historic Location</b>	Old Town Historic Overlay Zone	

### **Summary of Analysis**

*The application is for a Certificate of Appropriateness for alteration at 2004 South Plaza in the Old Town Historic Overlay Zone. The applicant proposes to construct an iron railing on the public right-of-way, under the portal, to establish outdoor seating for the restaurant.*

*Staff concludes that the proposal does not serve the interest of the public and introduces a disparate element to the environment.*

*The proposal is inconsistent with the specific development guidelines for the Old Town Historic Overlay Zone and does not support relevant Comprehensive Plan policies.*

#### **PRIMARY REFERENCES:**

*Landmarks and Urban Conservation Ordinance; Development Guidelines for the Old Town Historic Overlay Zone, Albuquerque Bernalillo County Comprehensive Plan.*

*City Departments and other interested agencies were given the opportunity to review this application from 9/17/09 to 9/28/09. Agency comments that were received were used in the preparation of this report, and begin on page 12.*

## ***Development Review Division Report:***

### ***SUMMARY OF REQUEST***

<b><i>Requests</i></b>	<i>Certificate of Appropriateness for alteration</i>
<b><i>Historic Location</i></b>	<i>Old Town / H-1 Zone</i>

### ***AREA HISTORY AND CHARACTER***

#### ***Surrounding architectural styles, historic character and recent (re)development***

	<b><i># of Stories</i></b>	<b><i>Roof Configuration, Architectural Style and Approximate Age of Construction</i></b>	<b><i>Historic Classification &amp; Land Use</i></b>
<b><i>General Area</i></b>	1-2	Flat; gabled and hipped pitch; Spanish-Pueblo Revival, New Mexico Vernacular, Queen Anne, Territorial Revival, Contemporary; 1840's to present	Residential, Commercial, Institutional
<b><i>Site to the North</i></b>		Old Town Plaza	
<b><i>Sites to the South</i></b>	1	Flat; New Mexico Vernacular; 1890's – 1930's	Contributing; Commercial
<b><i>Sites to the East</i></b>	2	Remodeled to Pueblo Revival	Non-contributing; commercial
<b><i>Site to the West</i></b>	1	Flat roofed Pueblo Revival	Non-contributing; commercial

### ***Background***

The Old Albuquerque Historic District is a sub-set of the Old Town Historic overlay zone. The Overlay Zone encompasses an area roughly between Mountain Road and Central Ave. on the north and south, and Rio Grande Blvd. and 19<sup>th</sup> St. on the west and east. Inside of this overlay zone is the state registered "Old Albuquerque Historic District".

The historic district is the core of the Hispano village of Albuquerque, founded in 1706, and the main village in the area until the arrival of the railroad in 1880. The church and plaza are at the center of the district, as in most Hispanic villages of New Mexico. The subject site at 2004 South Plaza is designated as a Contributing building to the historic district.

Of the buildings in the district, only San Felipe de Neri church can be shown to date to the Spanish Colonial period. A few buildings may be in whole or in part from the early nineteenth century, but the majority of the buildings in Old Albuquerque Historic District were built between 1870 and 1900. The most common type is the New Mexico Vernacular house.

Almost every building has seen some degree of remodeling, resulting from the area's growth as a tourist-oriented commercial center after 1940. Old Albuquerque became "Old Town", a district of shops, boutiques, galleries and restaurants. Many buildings acquired Pueblo Revival portals, protruding false vigas and other stylistic elements thought to be conducive to a tourist atmosphere.

South Plaza Street (called James Street in the early 20<sup>th</sup> century) shows up on the bird's eye map of 1886 as an uninterrupted row of buildings, much as it is today, but over time the building stock has undergone considerable change. Historically, the street housed a mixture of stores and dwellings; now it is almost entirely commercial. The density of South Plaza is visual balance to San Felipe Church and it enhances the sense of the plaza as an enclosed court.

As noted on the attached List of Buildings appended to this report, many of the houses on South Plaza were originally New Mexico Vernacular. The portals over the sidewalk unifying the street were added after 1940 as noted above.

The applicant proposes to construct a 36-inch high metal railing under the portal at the front of the existing building (Casa de Fiesta Restaurant) to enclose a small dining area. This would be located on the public-right-of-way.

This proposal will also require an encroachment agreement with the City of Albuquerque and a sidewalk-seating permit from City Zoning. The City's Registration for sidewalk seating requires a minimum clear aisle width of 8 feet on Central Ave from Eighth Street east to the railroad tracks, and 4 foot width everywhere else in the city.

The applicant has received approval from the Liquor Hearing Officer to expand the service of alcoholic beverages to this proposed area (Attached).

There is outdoor seating available at the restaurant in an open patio to the rear of the building.

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**APPLICABLE PLANS, ORDINANCES, DESIGN GUIDELINES & POLICIES**

***Albuquerque-Bernalillo County Comprehensive Plan of 1988, amended 2003***

This site is a Historic Resource in terms used in the *Comprehensive Plan*. The plan sets out goals and policies concerning land use, environmental protection and heritage conservation. Chapter II, Section 5, Historic Resources Goals and Policies (pp. II-61-II-62) states:

“The Goal for Historic Resources is to protect, reuse or enhance significant historic buildings and districts.”

Applicable Historic Resources policies include:

Policy b: Research, evaluation, and protection of historical and cultural properties in the City and County shall be continued where appropriate.

This site is contained in the Central Urban Development Area, a portion of the Established Urban Development Area as defined in the *Comprehensive Plan*, and is subject to the policies of Section II.B.5 (Established Urban Area) as well as the Central Urban Area policies. The Goal of the Central Urban Area is to “promote the Central Urban Area as a focus for arts, cultural, and public facilities/activities while recognizing and enhancing the character of its residential neighborhoods and its importance as the historic center of the City.”

The Goal of the Established Urban Area is to “create a quality urban environment which perpetuates the tradition of identifiable, individual, but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment.”

Applicable Established Urban Area policies include:

Policy d: “The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, and recreational concern.”

Section 11.C.8 Developed Landscape goal is “to maintain and improve the natural and the developed landscapes’ quality.” Policy A states, “The natural and visual environment, particularly features unique to Albuquerque, shall be respected as a significant determinant in development decisions.”

Section 11.C.9 Community Identity and Urban Design goal is “to preserve and enhance the natural and built characteristics, social, cultural and historical features that identify Albuquerque and Bernalillo County sub-areas as distinct communities and collections of neighborhoods.” Policy b states “In each Community Area, strategic planning, neighborhood planning, development and redevelopment shall be evaluated in light of its relationship to and effect upon (3) Local history, specifically architectural styles and traditions and current and historic significance to Albuquerque.

### ***H-1 Zone***

The Old Town Historic Zone was developed in 1957 with the adoption of the first Zoning Code for the City of Albuquerque. Old Town was recognized even then as a very special location within Albuquerque, and the H-1 Zone was designated specifically to address the development within Old Town. The H-1 Zone was later amended to include a 300 foot "buffer" zone surrounding Old Town to ensure a coherent visual character for the district. Signage, architectural style, and permissive uses are controlled through the H-1 Zone. The code provides for Certificates of Appropriateness for development with the H-1 and the Buffer zones. Relevant sections of the H-1 Zone (§14-16-2-25, R.O.A., 1994) are attached.

### ***Old Town Historic Zone Design Guidelines***

Design Guidelines (as amended through April 9, 1998) have been adopted by the Landmarks and Urban Conservation Commission for building projects in the H-1 Historic Old Town Zone. The Specific Design Guidelines for the Old Town Historic District also apply to the buffer zone within 300 feet of the historic district. The Guidelines are general, and along with standards applicable to the rehabilitation of historic properties, they address contemporary new buildings and pedestrian safety.

### ***Landmarks and Urban Conservation Ordinance***

This site consists of a contributing property in the Old Town Historic Overlay Zone and the project is subject to certain provisions of the Landmarks and Urban Conservation Ordinance (Article 12, R.O.A., 1994). The purpose of this ordinance is to:

"Preserve, protect, enhance, perpetuate and promote the use of structures and areas of historical, cultural, architectural, engineering, archeological or geographic significance located in the city; to strengthen the city's economic base by stimulating the tourist industry; to enhance the identity of the city by protecting the city's heritage and prohibiting the unnecessary destruction or defacement of its cultural assets; and to conserve existing urban developments as viable economic and social entities."

Section 14-12-8 (A) of the LUC ordinance provides that:

"Within the boundaries of a historic zone, urban conservation overlay zone, or landmark site, the exterior appearance of any structure shall not be altered, new structures shall not be constructed, and existing structures shall not be demolished until a Certificate of Appropriateness has been duly approved."

## **ANALYSIS**

GUIDELINE	ANALYSIS	Is the guideline satisfied?
1. Every reasonable effort should be made to provide compatible use for buildings which will require minimum alteration to the building and its environment.	The restaurant use is compatible with the building, but the proposed railing is an intrusive alteration to its environment, specifically the public way connecting the buildings surrounding the plaza.	NO
2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historic material or architectural features should be held to the minimum, consistent with the proposed use.	Not applicable	
3. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of original features, substantiated by physical or pictorial evidence rather than on conjectural designs of the availability of different architectural features from other buildings.	Not applicable	
4. Distinctive stylistic features or examples of skilled craftsmanship which characterize older structure and often predate the mass production of building materials should be treated with sensitivity. Many changes to buildings and environments, which have taken place in the course of time, are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right, and this significance should be recognized and respected.	The continuous portal over this section of South Plaza was constructed after 1940 to give the appearance of the long portals common to Territorial and Pueblo Revival buildings. The proposed railing area will alter the visual effect of this open corridor.	NO
5. Many changes to buildings and environments, which have taken place in the course of time, are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right, and this significance should be recognized and respected.	See above	
6. All buildings should be recognized as products of their own time. Alterations to create		

an appearance inconsistent with the actual character of the building should be discouraged.	The proposed alteration is inconsistent with the character of this building.	NO
7. The design, and general appearance of any development or alteration in the Old Town Historic Zone should be limited to the range of design options possible and commonly chosen in Albuquerque prior to the opening of the Santa Fe Railroad in April 1880. The design of any alteration to currently existing structures erected between 1880 and 1912 should be limited to the range of design options possible and commonly chosen at the time of the building's construction.	It would not be common to find a corralled area under an open portal.	NO
8. Contemporary design for new buildings and additions to existing buildings or landscaping in the 300 foot transition zone surrounding the Old Town Historic Zone should not be discouraged if such design is compatible with the size, scale, color, material, and character of the neighborhood, buildings, or its environment.	Not applicable	
9. Wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.	Not applicable	
10. Every effort should be made to safeguard the public welfare along vehicular and pedestrian traffic ways. Placement of walls, building projections, fences, planters, shrubs, signs, ramps, steps, etc. should be planned and positioned so that they do not present a potential hazard. Provisions for the handicapped should be planned so that the essential character of the property is not damaged.	The placement of this proposed railing in the public right-of-way does not serve the pedestrian on this busy sidewalk. It interrupts the flow of pedestrian traffic and leaves only a four-foot passage between the railing and the posts. It is likely that some pedestrians will be inclined to walk beyond the posts near the curb. The new area is not accessible to wheelchair users. This alteration creates an unnecessary situation that benefits the property owner rather than the public.	NO
11. Any security devices that prevent major features of doors and windows such as ornament, panels, glass panes, and mullions from being seen are prohibited.	Not applicable	
12. Security devices . . .	Not applicable	
13. Staff approvals . . .	Not applicable	

<b>LUC Ordinance (§14-12) A Certificate of Appropriateness shall be approved if it complies with the following criteria.</b>	<b>Analysis</b>	<b>Does the application satisfy the ordinance criteria?</b>
§14-12-8-B-(1) The change is consistent with the designation ordinance and specific development guidelines for the historic overlay zone	The proposed railing is not consistent with applicable development guidelines #'s 1, 4, 7 and 10 for the H-1 zone. The proposed railing is inconsistent with the character of the site and has the potential to impede pedestrians.	NO
§14-12-8 (B) (2) The architectural character, historical value, or archaeological value of the structure or site itself or of any historic zone in which it is located will not be significantly impaired or diminished. ORIGINAL shall mean at the time of construction or developed over the course of history of the building	.The existing portal was constructed to replicate the long portals common to Territorial and Pueblo Revival style buildings. The proposed railing will alter the site and diminish the intent of this feature.	NO
§14-12-8 (B) (3) Change qualified as a "certified rehabilitation" pursuant to the Tax Reform Act of 1976	Not applicable	
§14-12-8 (B) (4) The structure or site's distinguished original qualities or character will not be altered.	Not applicable	
§14-12-8 (B) (5) Deteriorated architectural features shall be repaired rather than replaced, if possible. If replacement is necessary, the new material shall match the original as closely as possible in like material and design.	Not applicable	
§14-12-8 (B) (6) Additions to existing structure and new construction may be of contemporary design if such design is compatible with its historic zone in which it is to be located.	Not applicable	
§14-12-8 (B) (7) Demolition shall only be permitted .....	Not applicable	



### ***ADDITIONAL CONSIDERATIONS***

There are no recognized neighborhood associations in this area. The property was posted with a sign notifying the public of the application.

The Old Town Property Owner's Association has submitted a comment (Attached) opposing the request.

### ***CONCLUSIONS***

Outdoor dining/seating opportunities in Old Town are typically on private property, and there are numerous opportunities. To limit the pedestrian right-of-way on the public sidewalk to four feet in this heavily trafficked tourist shopping district seems unnecessary. It could jeopardize the pedestrian who feels the need to walk between the portal posts and the curb.

Central Ave., another heavily trafficked sidewalk requires eight-foot minimum clear aisle for outdoor seating areas. This proposal provides only half that width to pedestrians.

The proposal introduces a disparate element to the long open portal and provides no benefit to the public. Approval of this type of infringement on the public sidewalks could encourage proliferation of similar enclosures in the future.

***FINDINGS for a request for a Certificate of Appropriateness for alteration - Case # 09LUCC-50039 / Project # 1007987 (November 18, 2009)***

1. This application is a request for a Certificate of Appropriateness for alteration at 2004 So. Plaza, described as Tract 174A MRGCD Map 38.
2. The proposal is to construct a three-foot tall iron railing under the portal to accommodate outdoor seating for the Casa de Fiesta restaurant.
3. The proposal would leave a four-foot wide clear aisle between the railing and the portal posts for pedestrians.
4. Section 14-16-2-25(D)(1) of the Comprehensive Zoning Code states "Any construction, modification, addition, alteration, moving or destruction which would affect the exterior appearance of any structure or place in the H-1 zone requires a Certificate of Appropriateness which must be approved by the Landmarks and Urban Conservation Commission."
5. The LUC Ordinance specifies that an application for a Certificate of Appropriateness shall be approved if it complies with several specified criteria. The LUC Ordinance Section 14-12(8)(B)(1) states that a Certificate of Appropriateness shall be approved if "*The change is consistent with the designation ordinance and specific development guidelines for the landmark or historic zone*".
6. The proposal described above is not consistent with specific development guideline number one for the Old Town Historic Zone in that it alters the environment of the portal.
7. The proposal described above is not consistent with specific development guideline number four for the Old Town Historic Zone in that the continuous portal over this section of South Plaza was constructed after 1940 to give the appearance of the long portals common to Territorial and Pueblo Revival buildings. This feature of South Plaza has gained significance in its own respect and the proposed railing area will negatively alter the visual aspect of this open corridor.
8. The proposal described above is not consistent with specific development guideline number ten for the Old Town Historic Zone. The placement of this proposed railing in the public right-of-way does not serve the interest of the pedestrian on this busy sidewalk. It interrupts the flow of pedestrian traffic and leaves only a four-foot passage between the railing and the posts. It is likely that some pedestrians will be inclined to walk beyond the posts near the curb. It has the potential to restrict wheelchair users.

9. The LUC Ordinance Section 14-12(8)(B)(2) states that a Certificate of Appropriateness shall be approved if *"The architectural character, historical value, or archaeological value of the structure or site itself or of any historic zone or urban conservation overlay zone in which it is located will not be significantly impaired or diminished"*.
10. The proposed railing, and future proliferation of this type of railing in the public right-of-way would diminish the architectural and historical character of the Old Town Historic Zone.
11. The *Albuquerque/Bernalillo County Comprehensive Plan* contains goals and policies related to Land Use. Section 11.B.5 Developing Urban Area goal is *"to create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles while creating a visually pleasing built environment."*
12. The proposed railing on the public sidewalk and the potential proliferation of this type of alteration on the public sidewalk do not create a visually pleasing built environment in this historic zone and does not support the stated goal for the *Developing and Established Urban Area*.
13. The *Albuquerque/Bernalillo County Comprehensive Plan* contains goals and policies related to Environmental Protections and Heritage Conservation. Section 11.C.5 Historic Resources goal is to protect reuse or enhance significant historic districts and buildings.
14. Limiting the erection of unnecessary railings that are visually inconsistent within the context of the Old Town historic zone protects and enhances this significant historic zone and supports the *Historic Resources* goal.
15. Section 11.C.8 Developed Landscape goal is *"to maintain and improve the natural and the developed landscapes' quality."* Policy A states, *"The natural and visual environment, particularly features unique to Albuquerque, shall be respected as a significant determinant in development decisions."*
16. The Old Town Historic Zone is a developed landscape feature unique to Albuquerque and public efforts to maintain a respectful and cohesive visual environment have been in place since 1957 when the H-1 Historic Zone was created. Limiting the placement of fencing in the public right of way in the H-1 zone supports the *Developed Landscape* goal.
17. Section 11.C.9 Community Identity and Urban Design goal is *"to preserve and enhance the natural and built characteristics, social, cultural and historical features that identify Albuquerque and Bernalillo County sub-areas as distinct communities and collections of*

*neighborhoods.” Policy b states “In each Community Area, strategic planning, neighborhood planning, development and redevelopment shall be evaluated in light of its relationship to and effect upon (3) Local history, specifically architectural styles and traditions and current and historic significance to Albuquerque.*

18. Limiting the type and location of fencing to support the architectural and historic context of the Old Town Historic Zone supports the *Community Identity and Urban Design* goal.

***RECOMMENDATION - Case No. 09LUCC-50039/ Project # 1007987 –  
(January 13, 2010)***

**DENIAL of 09LUCC-50039/ Project # 1007987**, an application for a Certificate of Appropriateness for alteration, located at 2004 South Plaza NW. This property is more specifically described as Tract 174B, MRGCD Map 38, a property in the Old Town Historic Overlay Zone, zoned H-1, based on the above 18 Findings.

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**Maryellen Hennessy, Senior Planner  
Current Planning Division**

Attachments

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## **CITY OF ALBUQUERQUE AGENCY COMMENTS**

### **ZONING CODE SERVICES DIVISION**

On December 3, 2009, Effective December 4, 2009, Albert Chavez, Liquor Hearing Officer, approved the request for Expansion of premises (to add patio service) by Ted Garcia, CEO, Casa de Fiesta, located at 2004 South Plaza NW. Mr. Ted Garcia has been informed to provide your office with this approval, to include all other approvals from other agencies associated with this request.

With regard to any questions you may have concerning inaccurate dimensions referenced on your site plan submittal, please note that the applicant has been informed to provide accurate and consistent dimensions for your office and any other agency associated with this request. Our office shall be relying on the applicant, your office and any other agency associated with this request to obtain accurate and consistent information.

If the applicant obtains all the required approvals, our office shall then proceed by making an inspection to verify that the applicant comply with all conditions of approvals - 1) CITY HEARING OFFICER, 2) DMD, 3) LUCC, THEN CODE ENFORCEMENT.

### **BUILDING & SAFETY SERVICES DIVISION**

Occupancy load limited to 9 persons, gate required. Permit required.

### **TRANSPORTATION DEVELOPMENT**

The proposed rod iron rails may interfere with the clear sight distance of the entrance. See the Development Process Manual Chapter 23, Section 6, Part B.12

*NOTE: This comment was related to the building at the corner of South Plaza and San Felipe which shares the 2004 South Plaza address. It was deemed inapplicable upon clarification.*

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**COMMENTS FROM OTHER AGENCIES, WHEN APPLICABLE:**

**PNM**

**ENVIRONMENTAL HEALTH DEPARTMENT**

**SOLID WASTE MANAGEMENT DEPARTMENT**

**FIRE DEPARTMENT/Planning**

**TRANSIT DEPARTMENT**

**POLICE DEPARTMENT**

**PARKS AND GENERAL SERVICES**

**OPEN SPACE DIVISION**

**BERNALILLO COUNTY**

**ALBUQUERQUE FLOOD CONTROL AUTHORITY**

**ALBUQUERQUE PUBLIC SCHOOLS**

**MIDDLE RIO GRANDE COUNCIL OF GOVERNMENTS**